

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DONALD TARNOSKI,

Plaintiff,

CIVIL ACTION NO. 06-CV-12397-DT

VS.

DISTRICT JUDGE MARIANNE O. BATTANI

**OLD REPUBLIC
INSURANCE CO.,**

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

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**OPINION AND ORDER DENYING DEFENDANT'S MOTION FOR
REHEARING/CLARIFICATION**

This matter comes before the Court on Defendant's Motion for Rehearing/Clarification filed on April 30, 2007. (Docket no. 24). Defendant's motion refers to this Court's Order entered on April 18, 2007. (Docket no. 23). That Order requires Defendant to provide "full and complete answers to Plaintiff's Interrogatories and to fully and completely respond to Plaintiff's Requests For Production on or before 5:00 p.m. on May 1, 2007." (Docket no. 23 at 6). Defendant now asks that the Court order that it need not produce privileged materials in response to Plaintiff's Request for Production of Documents. Plaintiff has responded to Defendant's motion. (Docket no. 27). The matter has been referred for decision pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket no. 25).

Plaintiff's request for these documents was served on December 28, 2006. (Docket no. 13). Defendant did not object or respond within the thirty days allowed by Fed. R. Civ. P. 34(b). Defendant responded to Plaintiff's Motion to Compel these documents on March 20, 2007 by stating that "Plaintiff's Request for Production of Documents is being responded to and Defendant expects to submit responses to Plaintiff within 14 days." (Docket no. 20). The Court held a hearing on this and another motion on April 17, 2007. At that time Defendant still had not produced any documents or served any objections.

Generally, motions for rehearing or for reconsideration are not granted unless the movant shows “a palpable defect by which the court and the parties have been misled” and that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). Defendant has failed to show that rehearing or clarification of the earlier Order is justified. “It is well settled that the failure to make a timely objection in response to a Rule 34 request results in waiver.” *Phillips v. Dallas Carriers Corp.*, 133 F.R.D. 475, 477 (M.D.N.C. 1990). Defendant waived any privilege by failing to timely assert it. Defendant has failed to provide any good reason for its failure to timely respond to Plaintiff’s Requests for Production. Moreover, the present Motion for Reconsideration was filed the day before the Court ordered Defendant to produce these documents. Accordingly, Defendant’s motion will be denied.

IT IS THEREFORE ORDERED that Defendant’s Motion for Rehearing/Clarification (docket no. 24) is **DENIED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: May 15, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: May 15, 2007

s/ Lisa C. Bartlett
Courtroom Deputy